

House Engrossed

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 103

HOUSE BILL 2493

AN ACT

AMENDING SECTION 36-3702, ARIZONA REVISED STATUTES; RELATING TO SEXUALLY
VIOLENT PERSONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-3702, Arizona Revised Statutes, is amended to
3 read:

4 36-3702. Notice of release; referral; immunity

5 A. If an agency that has jurisdiction over a person,— who is at least
6 eighteen years of age,— determines that the person may be a sexually violent
7 person, the agency shall submit a written request that a petition be filed to
8 the county attorney in the county in which the person was convicted, was
9 found incompetent or will be released or to the attorney general not more
10 than one hundred eighty days and not less than thirty days before the
11 person's anticipated release:

12 1. From confinement ~~of a~~ IF THE person ~~who~~ was convicted at any time
13 of a sexually violent offense.

14 2. ~~Of a~~ IF THE person ~~who~~ was found guilty except insane at any time
15 of committing a sexually violent offense.

16 3. ~~Of a~~ IF THE person ~~who~~ was charged at any time with a sexually
17 violent offense and ~~who~~ was determined to be incompetent to stand trial.

18 B. If the state department of corrections or the Arizona state
19 hospital has jurisdiction over a person who is at least eighteen years of age
20 and who at any time was convicted of a sexually violent offense, was found
21 guilty except insane of committing a sexually violent offense or was charged
22 with a sexually violent offense and was determined to be incompetent to stand
23 trial, THE STATE DEPARTMENT OF CORRECTIONS OR THE ARIZONA STATE HOSPITAL
24 shall determine if the person may be a sexually violent person. If the
25 agency determines that the person may be a sexually violent person, the
26 agency shall submit a written request that a petition be filed EITHER to the
27 county attorney in the county in which the person was convicted, was found
28 incompetent or will be released or to the attorney general. THE AGENCY MUST
29 SUBMIT THE WRITTEN REQUEST not more than one hundred eighty days and not less
30 than thirty days before the person's anticipated release. IF THE PERSON HAS
31 A PENDING SENTENCE OF IMPRISONMENT IN ANOTHER STATE OR FEDERAL JURISDICTION,
32 IN LIEU OF THE WRITTEN REQUEST THE DIRECTOR OF THE STATE DEPARTMENT OF
33 CORRECTIONS MAY INSTEAD ENTER INTO A WRITTEN AGREEMENT WITH THE PROSECUTING
34 AUTHORITY BY WHICH THE PERSON WAS PROSECUTED, WAS FOUND INCOMPETENT OR WILL
35 BE RELEASED TO HAVE THE PERSON RETRIEVED BY THE OTHER STATE OR FEDERAL
36 JURISDICTION.

37 C. The agency shall provide the county attorney or attorney general
38 with the following to support the written request that a petition be filed:

39 1. Certified copies of the following court documents:

40 (a) The complaint, information, judgment of conviction and commitment
41 order for the sexually violent offense that forms the basis for the petition
42 and detention orders.

43 (b) The complaint, information, judgment of conviction and commitment
44 order for any other conviction that the submitting agency possesses.

- 1 2. All records of evaluation and treatment, including any of the
2 following:
 - 3 (a) All psychological and psychiatric tests and assessment reports and
4 supporting information.
 - 5 (b) Group notes, autobiographical notes, progress notes, psychosocial
6 reports or other materials that were prepared by or that relate to the person
7 while the person was in custody or receiving treatment from the submitting
8 agency or any other agency.
 - 9 (c) Presentence investigation reports, whether prepared by the state
10 department of corrections, by a private agency or at the direction of the
11 superior court for sentencing on the sexually violent offense.
- 12 3. All records of the person's version of the offenses for which the
13 person has been convicted, including the notes and records of all interviews
14 and discussions with the person while the person was in the care of the
15 submitting agency or any other agency.
- 16 4. A record of all convictions and acquittals regardless of whether
17 those convictions were for sexually violent offenses.
- 18 5. Police reports that are in the possession of the referring agency
19 and that relate to any sexually violent offense that was committed by the
20 person.
- 21 6. Institutional records that relate to the person's behavior and
22 conduct while in custody and that are in the possession of the referring
23 agency.
- 24 7. Information indicating the dates of acceptance and rejection by the
25 person of any recommended or court ordered psychotropic medication to control
26 the person's mental disorder.
- 27 8. Information indicating the dates of acceptance and rejection by the
28 person of any recommended or court ordered psychological or psychiatric
29 counseling for treatment of the person's mental disorder.
- 30 9. A final release or discharge report, together with any information
31 on which the report is based, that is prepared in anticipation of either the
32 person's release from incarceration or commitment. The report shall include:
 - 33 (a) A report of the person's condition that was completed within the
34 preceding one hundred twenty days and that includes an opinion expressing to
35 a reasonable degree of psychiatric, psychological or professional certainty
36 that the person has a mental disorder and that, as a result of that mental
37 disorder, the person is likely to engage in a sexually violent offense.
 - 38 (b) A list of the names of all treatment providers who have treated or
39 worked with the person.
 - 40 (c) The curriculum vitae of each of the treating individuals that
41 details each individual's education, training and experience.
 - 42 (d) The facility in which the person is located at the time of the
43 referral and in which the person will be residing pending the filing of a
44 petition.

1 D. The agency and the agency's officers and employees providing mental
2 health evaluations and reports are immune from liability for any good faith
3 acts under this article.

4 E. The department of health services and the department of health
5 services' officers and employees providing mental health evaluations and
6 reports are immune from liability for any good faith acts under this article.

7 F. An agency's inability to comply with the time requirements under
8 subsection A OR B does not preclude the county attorney or the attorney
9 general from filing a petition alleging that a person is a sexually violent
10 person.

APPROVED BY THE GOVERNOR APRIL 20, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 21, 2010.